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Attorneys for Defendant

HOMEcomings FINANCIAL, LLC

f/k/a HOMEcomings FINANCIAL

NETWORK, INC.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

DOUG PEARSON, an individual, on
behalf of himself, and on behalf of all
persons similarly situated,

Plaintiff,

vs.

HOMEcomings FINANCIAL LLC,
formerly known as HOMEcomings
FINANCIAL NETWORK, INC.; and
DOES 1 through 100, Inclusive,

Defendants.

) CASE NO. 08 CV 0515 H NLS

)

) **DEFENDANT'S NOTICE OF MOTION**
) **AND MOTION TO DISMISS**

)

) [Fed. R. Civ. P. Rule 12 (b)(6)]

)

) Date: June 16, 2008

) Time: 10:30 a.m.

) Place: Courtroom 13

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) **Hon. Marilyn L. Huff**

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TO THE COURT, TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 16, 2008 at 10:30 a.m., or as soon thereafter as this
matter may be heard in the above-entitled Court located at 940 Front Street, San Diego, California,

1 defendant Homecomings Financial, LLC *f/k/a* Homecomings Financial Network, Inc.
 2 (“Homecomings”) will move the Court to dismiss this action pursuant to Federal Rule of Civil
 3 Procedure 12(b)(6) on the ground that the Complaint fails to state a claim upon which relief may be
 4 granted because Plaintiff has failed to comply with the notice and cure provision of his contract with
 5 Homecomings, a necessary condition precedent to bringing this lawsuit. Plaintiff’s Complaint
 6 should also be dismissed because the fraud allegations therein fail to satisfy the particularity standard
 7 of Federal Rule of Civil Procedure 9(b).

8 This motion will be based on this Notice of Motion and Motion, on the Memorandum of
 9 Points and Authorities filed concurrently herewith, any reply memoranda or declarations
 10 subsequently filed by Homecomings, on the pleadings and papers on file with the Court in this
 11 action, and such oral argument as may be made at the time of the hearing.

12 Dated: May 15, 2008

Respectfully submitted,

13 LOCKE LORD BISSELL & LIDDELL LLP
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